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SERIAL NUMBER 08/383,574	FILING DATE 06/07/95	FIRST NAMED APPLICANT HOLMES	ATTORNEY DOCKET NO. B 2657-21-3
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33M1/0415

EXAMINER O, K	
ART UNIT	PAPER NUMBER
3308	

DATE MAILED: 04/15/97

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Office Action Summary	Application No. 08/483,574	Applicant(s) Holmes et al.
	Examiner Ki O	Group Art Unit 3308



Responsive to communication(s) filed on Jan 21, 1997

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-14 and 34-39 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-14 and 34-39 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

2. Claims 1-14 and 34-39 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to Claims 1, 34, 36, and 39, the Applicant claims an "extracorporeal system for an apheresis system" in the preamble, but does not support such preamble in the claim. A blood processing vessel and a support does not meet the requirements necessitated by the combination of an extracorporeal system. An extracorporeal system for an apheresis system included pumps, rotor, tubing, catheters, reservoir, and a closed circuit at minimum.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-4 and 11-14 are rejected under 35 U.S.C. § 102(e) as being anticipated by Williamson, IV et al. (5,360,542).

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The elements and structures are considered to be clearly shown in the drawing and specification.

The processing chamber 22 as shown in Figure 32 of Williamson, IV et al. can be considered the blood processing vessel. Since the Applicant does not claim the "support" as being a specific type of structure, made any specific type material, or even it being directly attached to anything, the interpretation can be broad. Therefore, it can be considered that the hinge 242 which hold the blood processing vessel in place as shown in Figure 28 (col. 15, lines 58-65) can be considered a support. The characteristics of Claims 2-4 are considered inherent in such a hinge. In regards to Claims 11-14, see Figure 28.

Allowable Subject Matter

5. Claims 5-6, 34, and 35 are patentably distinguished over prior art of record because no one or combination of references teach of a support positioned within a recess which is formed on one of the first and second channel sidewalls and containing at least part of the blood-related port slot.

6. Claims 7-10 and 36-39 are patentably distinguished over prior art of record because no one or combination of references teach of a control port for controlling a radial position of at least one interface between red blood cells and an adjacent blood component.

Response to Amendment

7. The Applicant's Amendment has been received and entered. Currently, Claims 1-14 and 34-39 are pending. The examiner will address Applicant's remarks and arguments.

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Applicant states that hinge 242 does not interface with any blood-related port, and thereby cannot be the support of Claim 1. Examiner respectfully disagrees. Webster's II New Riverside University Dictionary defines the term "interface" as "a surface forming a common boundary between adjacent regions" or "A point at which independent systems or diverse groups interact". Since the hinge 242 holds the blood processing vessel, it can be considered to be in common boundary with between the adjacent components and it can be said that the hinge and the vessel interact, therefore it can be considered to interface the support. Therefore, the Applicant's arguments are not found persuasive.

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Conclusion

8. Applicant's amendment necessitated the new grounds of rejection (i.e. the support interfacing with the blood-related port and further interfacing with an exterior surface of the blood processing vessel). Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ki O whose telephone number is (703) 308-2681.


kyo
April 14, 1997


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
GROUP 3300